

**Federal Defenders  
OF NEW YORK, INC.**

Southern District  
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March 9, 2020

**By ECF**

Hon. Paul A. Crotty  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *United States v. Joshua Adam Schulte*, 17 Cr. 548 (PAC)

Hon. Judge Crotty:

The defense respectfully requests that the Court receive the jury's verdict on two counts, declare a mistrial on the remaining counts, and discharge the jury.

This jury has been sitting for five weeks. It has worked diligently and has submitted in excess of 20 notes. At this point, we believe that any *Allen* charge will bring undue pressure on the jury to reach a verdict.

Nevertheless, if the Court wishes to give a supplemental instruction, the defense proposes the following language, which is adapted from Judge Sand's treatise:

I understand that you have not been able to reach a verdict on eight of the counts. I am going to ask that you return to the jury room and continue your deliberations a bit longer to see whether a unanimous verdict is possible. The instructions which I previously gave still apply.

Specifically, I remind you that you should discuss and consider the evidence, listen to the arguments of your fellow jurors, present your individual views, and consult with one another. You should not hesitate to change your views if you are convinced they are erroneous. However, you should not surrender a conscientiously held belief simply because you are outnumbered or merely in order to reach a verdict.

Hon. Paul A. Crotty  
United States District Judge

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I also remind you that you must acquit the defendant unless the government has proven his guilt beyond a reasonable doubt.

*See also United States v. McDonald*, 759 F.3d 220, 225 n.5 (2d Cir. 2014) (noting that a brief request “that the jurors continue their deliberations will provide, in many situations, a sensible and manageable alternative to the often unwieldy instructions of a full modern *Allen* charge”).

Thank you for your attention.

Respectfully submitted,

/s/

Sabrina Shroff & Edward Zas  
Attorneys for Joshua A. Schulte